

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

OSVIN JAVIER GARCIA-CERRATO,

Defendant.

4:13CR3071

**FINDINGS AND
RECOMMENDATION**

The defendant, together with counsel and in the presence of counsel for government, appeared before the undersigned magistrate judge to tender a plea of guilty. The defendant was advised of the right to appear before a United States District Judge, and agreed to enter a guilty plea before a magistrate judge.

After being sworn, the defendant was advised of the charges and possible penalties, and was orally examined in open court as required by Federal Rule of Criminal Procedure 11. The defendant was also given the advice required by that Rule. Finally, the defendant was given an opportunity to address the court, and ask questions.

Counsel for the government and counsel for the defendant were given the opportunity to suggest additional questions by the court. Moreover, both counsel orally certified that they believed the plea was knowing, intelligent and voluntary, and that there was a factual basis for the plea.

Having questioned the defendant and considered the defendant's responses, the undersigned magistrate judge finds and concludes that (1) the plea is knowing, intelligent, and voluntary; (2) there is a factual basis for the plea; (3) the parties and the court have complied with the provisions of Rule 11 and any other provisions of the law governing the submission of guilty pleas; (4) a petition to enter a plea of guilty, on a form approved by the court, was completed by the defendant,

defendant's counsel and counsel for the government, accompanied the defendant's plea, and was placed in the court file; (5) a written plea agreement between the defendant and the government was filed of record; and (6) there are no agreements or stipulations other than as contained in the written plea agreement.

IT IS RECOMMENDED to the Honorable John M. Gerrard, United States District Judge, that after de novo review, the court accept the guilty plea and find the defendant guilty of the crime(s) to which the defendant tendered a guilty plea; and the that court accept the written plea agreement discussed with the defendant at the time of the plea hearing and filed of record, understanding that the court is not bound by the parties' agreement and stipulation, but may with the aid of the presentence report, determine the facts relevant to sentencing. (See, U.S.S.G. § 6B1.4(d)).

The court finds that in the interest of obtaining a just, efficient, and expeditious resolution of this case, the deadline for objecting to the findings and recommendation herein should be shortened. (See NEGenR [1.1](#)(c)). Therefore, if any party desires to object to the findings and recommendation, they shall do so no later than 14 calendar days following the date of the filing of the plea transcript, or the audio recording of the proceeding, whichever is earlier, or they may be deemed to have waived the right to object to adoption of the findings and recommendation.

January 29, 2014.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge